

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1222

FINAL READING

Introduced by Transportation and Telecommunications Committee:
Baker, 44, Chairperson; Aguilar, 35; Brown, 6;
Hudkins, 21; Stuthman, 22

Read first time January 18, 2006

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to telecommunications; to amend sections
2 86-442, 86-443, 86-456, 86-457, 86-459, 86-463, 86-465,
3 and 86-466, Revised Statutes Cumulative Supplement, 2004,
4 and section 86-420, Revised Statutes Supplement, 2005; to
5 provide duties for counties under the Emergency Telephone
6 Communications Systems Act; to define and redefine terms
7 under the Enhanced Wireless 911 Services Act; to adopt
8 and change provisions relating to surcharges and public
9 safety answering points; to provide duties for the Public
10 Service Commission; to harmonize provisions; to repeal
11 the original sections; and to declare an emergency.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 86-420, Revised Statutes Supplement,
2 2005, is amended to read:

3 86-420 Sections 86-420 to 86-441.01 and section 2 of this
4 act shall be known and may be cited as the Emergency Telephone
5 Communications Systems Act.

6 Sec. 2. Each county shall implement enhanced-911 service
7 by July 1, 2010.

8 Sec. 3. Section 86-442, Revised Statutes Cumulative
9 Supplement, 2004, is amended to read:
10 86-442 Sections 86-442 to 86-470 and sections 5, 6, and
11 13 of this act shall be known and may be cited as the Enhanced
12 Wireless 911 Services Act.

13 Sec. 4. Section 86-443, Revised Statutes Cumulative
14 Supplement, 2004, is amended to read:

15 86-443 For purposes of the Enhanced Wireless 911 Services
16 Act, the definitions found in sections 86-444 to 86-456 and
17 sections 5 and 6 of this act apply.

18 Sec. 5. Active, prepaid account means an account which
19 has a positive balance at the end of the monthly billing period or
20 calendar month or has a positive balance greater than or equal to
21 the surcharge amount, as determined by the wireless carrier.

22 Sec. 6. Prepaid customer means a wireless carrier
23 customer who pays in full prospectively for the service and is
24 assigned a Nebraska telephone number or a wireless carrier customer
25 whose primary place of use is in Nebraska.

1 Sec. 7. Section 86-456, Revised Statutes Cumulative
2 Supplement, 2004, is amended to read:

3 86-456 Wireless carrier means (1) any carrier of
4 ~~commercial mobile radio service as referenced in 47 U.S.C. 153(27)~~
5 ~~and 332(d)~~, as such sections existed on January 1, 2002, and
6 ~~47 C.F.R. 20.18~~, as such regulation existed on January 1, 2002,
7 ~~or (2) any cellular licensee, personal communications licensee,~~
8 ~~and specialized mobile radio carrier defined in 47 C.F.R. 20.18,~~
9 ~~as such regulation existed on January 1, 2002~~ mobile service as
10 referenced in 47 U.S.C. 153(27), as such section existed on January
11 1, 2006, (2) any carrier of commercial mobile service as referenced
12 in 47 U.S.C. 332(d) (1), as such section existed on January 1, 2006,
13 (3) any carrier of commercial mobile radio service as referenced in
14 47 C.F.R. 20.9, as such regulation existed on January 1, 2006, or
15 (4) any cellular radiotelephone service, licensees of a personal
16 communications service, and specialized mobile radio services as
17 referenced in 47 C.F.R. 20.9, as such regulation existed on January
18 1, 2006.

19 Sec. 8. Section 86-457, Revised Statutes Cumulative
20 Supplement, 2004, is amended to read:

21 86-457 (1) Each wireless carrier who has a subscriber
22 with a billing address in customer, other than a prepaid customer
23 or a customer in a county containing a city of the metropolitan
24 class, whose primary place of use is in Nebraska, shall collect
25 a surcharge of ~~not more than fifty cents~~ up to seventy cents per

1 month per access line. Each wireless carrier who has a customer
2 in a county containing a city of the metropolitan class shall
3 collect a surcharge of not more than fifty cents per month per
4 access line. The wireless carrier shall add the surcharge to each
5 ~~subscriber's~~ customer's billing statement. The wireless carrier is
6 not liable for any surcharge not paid by a ~~subscriber~~ customer and
7 is not obligated to take legal action to collect the surcharge.
8 The surcharge shall appear as a separate line-item charge on the
9 ~~subscriber's~~ customer's billing statement and shall be labeled as
10 "Enhanced Wireless 911 Surcharge" or a reasonable abbreviation of
11 such phrase. The commission may take any legal action as it deems
12 necessary to collect unpaid surcharges in its own name, as a real
13 party in interest, or by assigning such debt for collection to a
14 third party.

15 (2) If a wireless carrier resells its services through
16 other entities, each reseller shall collect the surcharge from
17 its subscribers and shall remit the surcharge in accordance with
18 section 86-459.

19 (3) Beginning on July 1, 2007, each wireless carrier who
20 has a prepaid customer shall remit a surcharge from each prepaid
21 customer in the amount established in subsection (1) of this
22 section. A wireless carrier may collect such surcharge from prepaid
23 customers using one of the following methods:

24 (a) The wireless carrier shall divide the total earned
25 prepaid wireless telephone revenue received by the wireless carrier

1 within the monthly reporting period by fifty dollars and multiply
2 the quotient by the surcharge amount;

3 (b) The wireless carrier shall collect on a monthly
4 basis the surcharge from each customer's active, prepaid account.

5 A customer with two or more active, prepaid accounts shall be
6 assessed a separate surcharge for each active, prepaid account; or

7 (c) A wireless carrier shall remit the surcharge upon
8 the activation of the active, prepaid account and upon each
9 replenishment of additional minutes purchased by the prepaid
10 customer.

11 Sec. 9. Section 86-459, Revised Statutes Cumulative
12 Supplement, 2004, is amended to read:

13 86-459 (1) Each wireless carrier shall remit monthly to
14 the commission the amount of surcharge collected together with any
15 forms required by the commission no later than sixty days after the
16 last day of the month. The commission shall remit the funds to the
17 State Treasurer for credit to the Enhanced Wireless 911 Fund.

18 (2) As the commission may require, each The wireless
19 carrier shall report to the commission on a quarterly basis the
20 following information: (a) The the number of wireless lines,
21 including prepaid customers, served and by county; (b) the number
22 of wireless lines, including active, prepaid accounts, from which
23 it has collected surcharge revenue by county; (c) the number of
24 wireless towers by county; and (d) the current implementation
25 status of enhanced wireless 911 service in each county served by

1 that wireless carrier.

2 (3) The wireless carrier shall maintain surcharge and
3 remittance records for a period of two years after the date of
4 the subscriber's billing statement. The commission shall remit the
5 funds to the State Treasurer for credit to the Enhanced Wireless
6 911 Fund remittance to the fund. The commission may at its own
7 expense require an audit of any wireless carrier's books and
8 records concerning the collection and remittance of the surcharge
9 pursuant to the Enhanced Wireless 911 Services Act.

10 (4) Each wireless carrier shall comply with all
11 commission rules and regulations regarding enhanced wireless 911
12 service.

13 (5) Each wireless carrier shall comply with this section
14 regardless of whether the wireless carrier receives reimbursement
15 from the fund. Wireless carriers failing to comply with this
16 section may be administratively fined by the commission pursuant to
17 section 75-156.

18 Sec. 10. Section 86-463, Revised Statutes Cumulative
19 Supplement, 2004, is amended to read:

20 86-463 The Enhanced Wireless 911 Fund is created. The
21 fund shall consist of the surcharges credited to the fund,
22 any money appropriated by the Legislature, any federal funds
23 received for wireless emergency communication, and any other funds
24 designated for credit to the fund. Money in the fund shall be used
25 for the costs of administering the fund and the purposes specified

1 in section 86-465 unless otherwise directed by federal law with
2 respect to any federal funds. The costs of administering the fund
3 shall be kept to a minimum. ~~Until July 1, 2004, the~~ The money
4 in the fund shall not be subject to any fiscal-year limitation
5 or lapse provision of unexpended balance at the end of any fiscal
6 year or biennium. Any money in the fund available for investment
7 shall be invested by the state investment officer pursuant to
8 the Nebraska Capital Expansion Act and the Nebraska State Funds
9 Investment Act.

10 Sec. 11. Section 86-465, Revised Statutes Cumulative
11 Supplement, 2004, is amended to read:

12 86-465 (1) The commission shall, in consultation with the
13 advisory board:

14 (a) Determine the costs to implement wireless automatic
15 location identification;

16 (b) Determine the level of funding needed to trigger
17 disbursements pursuant to the Enhanced Wireless 911 Services Act;

18 (c) Determine the percentage of the fund to be allocated
19 to each funding purpose, including the percentage that shall be
20 designated for funding 911 service under subdivision (2)(c) of this
21 section; ~~and~~

22 (d) Determine how the funds distributed under
23 subdivisions (2)(a) and (2)(c) of this section are to be allocated
24 among the wireless carriers and the public safety answering points;
25 and -

1 (e) Establish a mechanism for determining the level
2 of funding available to each public safety answering point and
3 wireless carrier for costs determined to be eligible by the
4 commission under subsection (2) of this section.

5 (2) The commission shall, in consultation with the
6 advisory board, establish eligibility standards and criteria
7 for fund disbursement applications and standards and criteria
8 concerning the level of fund disbursement for each application. In
9 establishing such criteria and standards, the following purposes
10 ~~shall~~ may be eligible for funding:

11 (a) Costs incurred or to be incurred by wireless carriers
12 to implement enhanced wireless 911 service pursuant to a service
13 agreement with a public safety answering point or pursuant to a
14 request for service from a public safety answering point. Such
15 costs ~~shall~~ may include, but not be limited to, the portion of the
16 costs for new equipment used for providing enhanced wireless 911
17 service, costs to lease another vendor's equipment or services to
18 provide enhanced wireless 911 service, costs to create or maintain
19 any data base or data base elements used solely for enhanced
20 wireless 911 service, and other costs of establishing enhanced
21 wireless 911 service. The portion of the costs of equipment
22 or services used in the wireless carrier's main infrastructure
23 resulting in revenue to the wireless carrier is not eligible for
24 funding;

25 (b) Costs incurred or to be incurred by public safety

1 answering points to implement enhanced wireless 911 service,
2 ~~including~~ may include, but not be limited to, purchases of new
3 equipment, costs of upgrades, modification and personnel training
4 used solely to process the data elements of enhanced wireless 911
5 service, and maintenance costs and license fees for new equipment;

6 (c) Costs incurred or to be incurred by public safety
7 answering points for the purchase, installation, maintenance, and
8 operation of telecommunications equipment and telecommunications
9 services required for the provision of enhanced wireless 911
10 service; and

11 (d) Expenses incurred by members of the advisory board
12 while performing duties required by the act.

13 (3) The commission shall have any powers necessary to
14 carry out the intent and purposes of the act.

15 Sec. 12. Section 86-466, Revised Statutes Cumulative
16 Supplement, 2004, is amended to read:

17 86-466 (1) A public safety answering point and wireless
18 carrier ~~shall~~ may be compensated for costs determined by the
19 commission to be eligible for funding. The level of funding
20 available to each public safety answering point and wireless
21 carrier for eligible cost compensation may be limited based upon
22 the mechanism established by the commission pursuant to section
23 86-465. The commission is not required to provide compensation for
24 costs to more than one public safety answering point in any county.
25 A public safety answering point or wireless carrier may apply for

1 disbursement from the Enhanced Wireless 911 Fund by submitting a
2 written application to the commission. The commission shall receive
3 and review applications, including supporting documentation. The
4 commission shall notify each applicant as to the commission's
5 approval or disapproval of the application.

6 (2) Each entity that receives disbursements from the fund
7 shall make a full accounting of the money in a manner and form
8 prescribed by the commission.

9 Sec. 13. If any county does not have enhanced wireless
10 911 service, the commission may designate a public safety answering
11 point that has enhanced wireless 911 service to receive wireless
12 911 service calls and directly dispatch or relay calls to the
13 appropriate emergency services provider until the county has
14 implemented enhanced wireless 911 service.

15 Sec. 14. Original sections 86-442, 86-443, 86-456,
16 86-457, 86-459, 86-463, 86-465, and 86-466, Revised Statutes
17 Cumulative Supplement, 2004, and section 86-420, Revised Statutes
18 Supplement, 2005, are repealed.

19 Sec. 15. Since an emergency exists, this act takes effect
20 when passed and approved according to law.